

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 17.38.101 and 17.38.106)
pertaining to public water and) (PUBLIC WATER SUPPLY)
sewage system requirements)

TO: All Concerned Persons

1. On October 17, 2002, the Board of Environmental Review published MAR Notice No. 17-177 regarding a notice of public hearing on the proposed amendment of the above-stated rules and the adoption of revisions to department Circular DEQ-4 at page 2780, 2002 Montana Administrative Register, issue number 19.

2. The Board has amended ARM 17.38.101 and 17.38.106 exactly as proposed. Amendments have been made to the DEQ-4 Circular in response to comments as set forth in the adoption notice for MAR Notice No. 17-176 published in this issue of the Montana Administrative Register.

3. In addition to the comments received regarding the DEQ-4 Circular, the following comments were received and appear with the Board's responses.

COMMENT NO. 1: A person who works for an engineering firm submitted written comments regarding the proposed rules. He expressed a general concern that plan review fees are excessive and amount to extortion. He also suggested that the state should bill for review on an hourly basis.

RESPONSE: The proposed amendments adopt fees for review of projects designed under Circular DEQ-4, 2002 Edition, by referencing the existing fee schedule in ARM 17.36.802 (Sanitation in Subdivision Rules). This will provide for a consistent department assessment of fees whether these systems are reviewed as part of a subdivision or as non-subdivision public wastewater systems.

The subdivision fee schedule in ARM 17.36.802 assesses a fee of \$150 for an on-site wastewater system designed under Circular DEQ-4, plus \$50 per hour for review time beyond 3 hours, plus a flat fee of \$25 for review of the associated drainfield. The current fees under the public water supply rules for review of public drainfield-type systems, including the fee for review of septic tanks and drainfields, range from

\$200 to \$400. Therefore, the fee amendments should actually reduce the plan review fees for most public drainfield-type systems. The schedule is also consistent with

the suggestion made by the commenter with respect to assessing an hourly fee.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

_____ By: _____

JAMES M. MADDEN
Rule Reviewer

JOSEPH W. RUSSELL, M.P.H.
Chairman

Certified to the Secretary of State, _____, 2003.